

IDAHO BOARD OF BARBER EXAMINERS
Bureau of Occupational Licenses
700 West State Street, P.O. Box 83720
Boise, ID 83720-0063

Board Meeting Minutes of 11/13/2017

BOARD MEMBERS PRESENT: Thomas E Grimsman - Chair
K. Ryan Nave

BOARD MEMBERS ABSENT: Nancy M Kerr

BUREAU STAFF: Tana Cory, Bureau Chief
Dawn Hall, Deputy Bureau Chief
Lori Peel, Investigative Unit Manager
Maurie Ellsworth, General Counsel
Roger Hales, Naylor & Hales
Joan Callahan, Legal Counsel
Allegra Earl, Technical Records Specialist I

The meeting was called to order at 8:30 AM MST by Thomas E Grimsman.

APPROVAL OF MINUTES

Mr. Nave made a motion to approve the minutes of 7/10/2017, 7/31/2017, 9/25/2017 and 10/4/2017. It was seconded by Mr. Grimsman. Motion carried.

EXECUTIVE ORDER

Ms. Cory updated the Board on the Executive Order meeting on 10/12/2017 with Lieutenant Governor Little. Ms. Cory stated that Lieutenant Governor Little gave an overview of the Executive Order and explained that the purpose of the review is to ensure the lightest possible hand of government regulating commerce and industry while still preserving the public trust.

LEGISLATIVE REPORT

Ms. Cory gave the legislative report. The deadlines to submit proposed rule and law revisions to the Governor's Office have passed for the 2018 Legislative Session. The deadline to submit proposed law changes to the Governor's Office is July and the deadline to submit proposed rule changes to the Governor's Office is August for the 2019 Legislative Session.

FINANCIAL REPORT

Ms. Hall gave the financial report, which indicated that the Board had a cash

balance of \$23,429.67 as of 10/31/2017.

INVESTIGATIVE REPORT

Ms. Peel gave the investigative report, which is linked above.

FOR BOARD DETERMINATION

Mr. Nave made a motion to approve the Bureau's recommendation and authorize closure in case I-BAR-2017-22. It was seconded by Mr. Grimsman. Motion carried.

Mr. Nave made a motion to approve the Bureau's recommendation and authorize closure with a warning letter in case I-BAR-2018-5. It was seconded by Mr. Grimsman. Motion carried.

DISCIPLINE

Ms. Peel presented a settlement order regarding case number BAR-2018-2 and BAR-2018-3. Mr. Nave made a motion to approve the Settlement Order and allow the Board Chair to sign on behalf of the Board. It was seconded by Mr. Grimsman. Motion carried.

REQUEST FOR PAYMENT ARRANGEMENT

BAR-2017-6/7 Mr. Nave made a motion to approve a payment plan for one year. It was seconded by Mr. Grimsman. Motion carried.

BAR-2017-11 Mr. Nave made a motion to approve a payment plan for one year. It was seconded by Mr. Grimsman. Motion carried.

MEMORANDUM

Ms. Peel presented a memorandum regarding case numbers BAR-2018-6 and BAR-2018-7, and BAR-2018-8 and BAR-2018-9. After discussion, the Board gave recommendations for appropriate discipline.

OLD BUSINESS

To Do List – The Board reviewed the to do list and no action was taken.

PROPOSED LEGISLATION

Mr. Hales started by saying that the Board along with the Board of Cosmetology has been working on proposed legislation for the last 2 years. He said that Ms. Callahan had been working closely with the Boards and that a letter had been sent out asking licensees to comment on the proposed legislation. Board members had been provided with all of the comments received by the Board and the Board of Cosmetology regarding the proposed legislation.

NEW BUSINESS

REVIEW COMMENTS ON PROPOSED LEGISLATION

The first item reviewed was on the retail thermal styling equipment dealers. Ms. Callahan reviewed the definition of a retail dealer. She stated that the demonstrator would be limited to doing a portion of the person's hair and the dealer would not receive any compensation for the demonstration other than the regular price of the equipment. This would be a registration and not a license primarily because this would not be a fixed location; the location could be mobile. The company would be responsible for training the employees and making sure that all sanitation and infection control was followed. Lastly, the Board would be able to inspect these dealers to ensure the safety and infection control procedures were being followed.

Ms. Callahan then reviewed the proposal regarding makeup artistry. This proposed license would allow someone to practice makeup artistry without having to have a full cosmetologist or esthetician license. The proposal calls for 100 instructional hours in the practice of makeup artistry and 100 instructional hours of training in safety and sanitation. The Board also reviewed a syllabus from Milady for a course on makeup artistry, which was 112.5 hours in length.

The next item discussed was the proposal to allow licensees to practice certain services outside of a licensed establishment for compensation and without a permit from the Board. The licensee and location would be required to follow the Board's safety and infection control requirements. The Board discussed that certain services, such as has a haircut, could be safely performed outside of a licensed establishment. The Board also briefly reviewed the updated disinfection language in the proposed legislation.

Mr. Hales reviewed the proposal on crossover hours and that the Board's proposal last year and this year allows the new joint Board to determine the number of instructional hours in cosmetology that could be counted toward a barber license and the number of instructional hours in barbering that could be counted toward a cosmetology license. The bill that was put forth by legislators in 2017 specified that a cosmetologist could take a 100 hour course of instruction to obtain a barber license. A few comments received by the Cosmetology Board on this topic requested that the Board specify in this year's proposal that 100 instructional hours were needed for a cosmetologist to get a barber license. Mr. Hales also noted that some of the comments from barbers opposed the crossover hour proposal.

Mr. Grimsman stated that he believed that Milady had recently released a curriculum for cosmetologists specific to shaving. The information available on Milady's website did not discuss the full curriculum or the length of the program. The Board discussed whether more research and discussion was needed to identify the number of hours needed for a crossover license. The Board also discussed whether training in areas other than shaving were needed to ensure competency in barbering. The Board also discussed that the total number of hours were under discussion and that there were pending proposals on the

cosmetology side regarding hair designer and makeup artist licenses and that this could influence the number of crossover hours. The Board discussed the need to discuss with the Cosmetology Board the needs of a crossover curriculum. The Board also discussed whether this presented a barrier to entry in the profession and whether other proposals help reduce those barriers. Mr. Hales also reviewed the Board's options to conduct temporary rulemaking, which would allow the hours to be set as soon as possible. Therefore, the Board discussed leaving the discretion in the proposed legislation to set crossover hours by rule.

Ms. Callahan reviewed the proposal on school hours. The Board has proposed leaving the barber hours at 900 and lowering the barber stylist instructional hours from 1,800 to 1,600. The Board then sent a letter to licensees specifically requesting comment on the number of instructional hours that should be required for a license. Ms. Callahan summarized the comments received on the proposal. The Board received nine comments specific to the barber stylist instructional hours. One comment favored increasing the hours, and on the other end of the range, one comment favored lowering the hours to 1,000 hours. Three comments supported 1,600 hours, and two of these comments were received last spring. Two comments generally were in favor of lowering the hours but they did not specify an amount of hours. Finally, two comments supported keeping 1,800 hours.

The Board also received a chart from the National Association of Barber Boards of America listing the number of instructional hours by state. It appears that the instructional hours in the list were for barber stylist licenses. Idaho is in the top five states for the number of hours. Two states require 2,100 hours and three states, including Idaho, require 1,800 hours. Most states require 1,500 hours. There was some discussion regarding the hours for a cosmetology license and differences between the practices allowed under the different licenses. Ms. Callahan noted that the Cosmetology Board is proposing a hair design license that would be limited in scope to services related to hair, including chemicals. This scope of practice is more similar to the barber stylist license but does not include shaving.

The Board discussed some of the history in past changes in instructional hours. The Board members discussed different options in required hours and the interrelation to hours of instruction for cosmetology and the proposed hair design licenses. There was general agreement that the hours between the cosmetology and barbering professions should correlate and keep the professions in balance to a certain point depending on the Board of Cosmetology's decision. It was noted that the Board of Cosmetology was scheduled to discuss the issue at its meeting that afternoon. Mr. Grimsman said he would attend the Cosmetology Board meeting that afternoon.

Next, the Board reviewed the change to the endorsement requirements to allow an out-of-state licensee to show one year of practice in the last three years. This was a change from last year's proposal and was in response to potentially lowering the hours of instruction to reflect that a lower number of hours of required instruction would correlate with requiring a lower number of years of practice.

Mr. Hales reviewed the proposed exemption for services incidental to theatrical and visual arts productions. This exemption exists in other states. The Board had proposed this exemption last year because people performing these services are not working on the public in general and some production companies may be bringing their own hair and makeup people, who may be licensed in another state. Mr. Hales noted that a number of commenters were not in favor of this exemption and two commenters specifically raised concerns about health and safety of the performers. Some comments received by the Cosmetology Board noted that the exemption may not be necessary with the proposals to license makeup artistry and allow Idaho licensees to work outside of a licensed establishment. The Board members expressed that they did not have concerns with keeping the exemption as proposed. The Board members also did not express concern with the Board of Cosmetology eliminating the exemption.

Mr. Grimsman asked about the makeup of the combined Board if the bill passes and whether the position for the school owner would rotate between cosmetology schools and barber schools. Mr. Grimsman expressed concerns about ensuring the Board remained balanced. Ms. Cory stated that the school owner may change at the end of the 3 year term or some school owners might own both a cosmetology and barber school. The Board reviewed other provisions in the law about the service and removal of a Board member.

Mr. Nave made a motion to proceed with the proposed legislation and to provide the Board Chair discretion on those issues as appropriate this afternoon to finalize the legislation. It was seconded by Mr. Grimsman. Motion carried.

PUBLIC COMMENT

There was no public comment.

REVIEW DRAFT APPLICATIONS AND PROCESS

Ms. Hall reviewed the changes made to the barber applications and discussed the process.

Mr. Nave made a motion to allow certain felony or discipline applications, with material already reviewed and approved by the Board for a previous license, to be reviewed by the Board Chair for approval. It was seconded by Mr. Grimsman. Motion carried.

Mr. Nave made a motion to accept the changes and post the revised applications on the web. It was seconded by Mr. Grimsman. Motion carried.

NEXT MEETING DATES

The next three face to face meeting dates were scheduled. They are March 12, 2018 at 8:30 AM MST, July 9, 2018 at 8:30 AM MST and November 5, 2018 at 8:30 AM MST.

LEGISLATIVE INTERIM COMMITTEE UPDATE

Mr. Ellsworth stated that the Idaho Legislature has an Interim Committee that has been studying the use of Hearing Officers. The Interim Committee is also looking at the Idaho Administrative Procedures Act. Draft legislation was presented at the Interim Committee's last meeting that would make changes to Idaho Administrative Procedures Act and the way contested cases are handled. The Bureau submitted a letter to the committee which met on October 2, 2017 seeking clarification and rationale on some of the changes. As the Bureau receives additional information, it will be provided to the Board.

ADJOURNMENT

Mr. Nave made a motion to adjourn the meeting at 10:54 AM MST. It was seconded by Mr. Grimsman. Motion carried.

Thomas E Grimsman, Chair

K. Ryan Nave

Nancy M Kerr

Tana Cory, Bureau Chief